

1 Robert G. Drummond
Chapter 13 Standing Trustee
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Great Falls, Montana 59403-1829
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4 I.D. Number 0636
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5 (Trustee)
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8 UNITED STATES BANKRUPTCY COURT
9 FOR THE DISTRICT OF MONTANA
10

11 In re) No. 06-60894-13
12) **NOTICE OF HEARING:**
MITCHELL B. CLOUSER and) DATE: August 16, 2007
13 BREND A S. CLOUSER,) TIME: 9:00 A.M.
Debtors.) LOCATION: 201 E. Broadway
Courtroom #200A
Missoula, Montana

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15 **TRUSTEE'S OBJECTION TO MOTION TO MODIFY CHAPTER 13 PLAN**
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18 COMES NOW, Robert G. Drummond, Chapter 13 Standing Trustee, and objection to the
19 Debtors' Motion to Modify Chapter 13 Plan for the following reasons:

20 1. The case is a post BAPCPA case. The Debtors recognize in paragraph 8 of their
21 Motion that the case in *In re Slusher*, 359 B.R. 290 (Bankr. Nev. 2007) holds that the applicable
22 commitment period appearing at 11 U.S.C. § 1325(b) is temporal and, thus, the Debtors should
23 not be entitled to pay off their Chapter 13 plan prior to the completion of the applicable
24 commitment period unless they are going to pay all creditors in full. *See also, In re Casey*, 356
25 B.R. 519, 526-28 (Bankr. E.D. Wash. 2006).

26 2. The modified plan departs from the confirmed Chapter 13 plan that it provides
27 that Wells Fargo will be paid in full directly by the Debtors. The confirmed Chapter 13 plan
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1 provides that the arrearage portion of the claim will be under the terms of the plan through the
2 Trustee. The departure from the confirmed plan is bad faith. The Debtors having been living
3 with the confirmed plan since its confirmation and to depart from it now that they have
4 presumably arranged for refinancing is indicia of their bad faith.

5 DATED this 9th day of July, 2007.

6 Chapter 13 Standing Trustee
7 P. O. Box 1829
8 Great Falls, MT 59403-1829

9 By /s/ Robert G. Drummond
10 Trustee

11 **CERTIFICATE OF MAILING**

12 I, the undersigned, do hereby certify under penalty of perjury that a copy of the within
13 and foregoing TRUSTEE'S OBJECTION TO MOTION TO MODIFY CHAPTER 13 PLAN
14 was mailed on the 9th day of July, 2007, at Great Falls, Montana, and directed to the following:
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16 Wells Fargo Bank, N.A.
17 c/o McCalla, Raymer
18 Bankruptcy Department
1544 Old Alabama Road
Roswell, GA 30076

19 /s/ Heidi Weedon
20 Heidi Weedon